

Executive Registry

72-5240/12



CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OFFICE OF THE DIRECTOR

1 NOV 1972

The Honorable William S. Moorhead
Chairman, Foreign Operations and
Government Information Subcommittee
Committee on Government Operations
Washington, D. C. 20515

My dear Mr. Chairman:

Enclosed is our response to your September 29, 1972, request for comments on the Committee's recommendations concerning the administration of the Freedom of Information Act.

As we indicated in our report to you of September 30, 1971, almost all records of this Agency are exempted from public inspection under the Act (e. g., "...specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy..." and "...specifically exempted from disclosure by statute..." [5 U. S. C. 552(b)(1) and (3)]). Other applicable provisions of law covering the protection of intelligence sources and methods (50 U. S. C. 403 and 50 U. S. C. 403g) require that we refrain from commenting on public inquiries concerning specific Agency activities.

Within these constraints and conditions, the Agency is administering requests for information under the Freedom of Information Act in line with the recommendations that have been made by the Committee.

Sincerely,

257 Richard Helms

Richard Helms
Director

Enclosure

MORI/CDF

Distribution:

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1 - Signing Official

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OLC/LLM:Smg (31 Oct 72)

Government Operations Committee
Administrative Recommendations to Federal
Departments and Agencies
(House Report 92-1419) (Pages 81-82)

1. Recommendation: Improve their system for keeping records of requests for information under the FOI Act, thus making possible a more adequate evaluation of the agency's performance in complying with the provisions of the act. Such action should include top-level administration supervision and oversight.

Comment: The Assistant to the Director of Central Intelligence is responsible for implementing the procedures of this Agency for all requests received for information under the FOI Act. The record of such requests is maintained in a central file under the custody of the Assistant to the Director.

2. Recommendation: Each agency head should make a positive statement affirming his personal commitment to the principles embodied in the FOI Act.

Comment: Such a statement by the Director is not necessary to assure that this Agency's administration of the FOI Act comports with the principles embodied in that act. As stated in the covering letter, unique statutory restraints and conditions apply to this Agency since almost all records of this Agency are classified and the Director, by statute, is responsible for protecting sources and methods from unauthorized disclosure. The Director is committed to fulfilling all of his statutory responsibilities. The Assistant to the Director, who administers all requests to this Agency under the FOI Act, is fully aware of the Director's commitment in this respect, the congressional intent in enacting that law, and the instructions issued within the Executive Branch for its implementation.

3. Recommendation: Centralize within the department or agency and provide policy direction to field offices to properly implement administrative procedures affecting the FOI Act so as to achieve better coordination among all subagencies or units within the parent entity.

Comment: This Agency does not have field offices involved in administering requests under the FOI Act. As stated in the comment under recommendation number 1, the administration of such requests is already centralized.

4. Recommendation: Require that letters refusing access to public records notify the requester of the right of administrative appeal where it exists and cite the specific subsection or subsections of the FOI Act which are the basis for the initial refusal.

Comment: The Agency's procedure and practice in responding to requests under the FOI Act require that the requester be notified of his right of administrative appeal where it exists and of either the section of the Executive Order which requires that the record sought remain classified, or the substance of the provision of law which is the basis for an initial refusal.

5. Recommendation: Assure maximum participation of and consultation with public information personnel in administrative actions under the Freedom of Information Act.

Comment: See comment under recommendation number 1 above.

6. Recommendation: Establish on a uniform basis the lowest reasonable search and reproduction fees for documents made available under the act and include provisions for waiver of fees in hardship cases or when waiver would serve the public interest.

Comment: Pursuant to the CIA notice of August 3, 1972 (37 F.R. 150), such fees as are charged conform to the standards established in 31 U.S.C. 483a (32 C.F.R. 1900.51). The regulations do not require a fee to be charged in every case. Based upon our limited experience to date, our fees for reproduction have run 5 cents per page and we have not charged for any search costs.

7. Recommendation: Institute seminars and other training procedures to make sure that all affected employees understand the importance, intent, and proper administration of the FOI Act, including the preparation of pamphlets explaining procedures under the act.

Comment: See comments under recommendation numbers 1 and 2.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Acting Legislative Counsel
7D43 Hqs

EXTENSION

NO.

OLC 72-1059

DATE

31 October 1972

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

STAT

1. Ex. Dir.

10/31

11/1

WEC
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The Director

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Attached for the Director's signature is a proposed response to Chairman Moorhead's (Foreign Operations and Government Information Subcommittee) request for comments on recommendations for improving Executive agency administration of the Freedom of Information Act.

The proposed comments, set forth as an enclosure to the Director's letter, boil down to the fact that (1) our administration of the FOI Act is in line with what the Committee recommends and (2) the requirement to protect intelligence sources and methods imposes certain unique requirements on the Agency. The Director's previous report to the Committee dated 30 September 1971 also made the latter point.

The attached has been coordinated with [redacted]

Mr. Thuermer: [redacted]

OGC [redacted] DDS; and [redacted]

[redacted] Office of Security.

Further, we have checked with the Committee staff and a report along the lines proposed satisfies their needs and poses no problems.

[redacted]
Acting Legislative Counsel

A and, at D.C.I.'s request, w/mr. Houston on 1 Nov.

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FORM
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